

ORIGINAL

FILED

June 10 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 09-0556 and DA 09-0605

STATE OF MONTANA,

Plaintiff and Appellee,

v.

DONNIE MACK SELLERS,

Defendant and Appellant.

FILED

JUN 10 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

NOTICE OF SUPPLEMENTAL INFORMATION

On February 3, 2010, the Office of the Appellate Defender (OAD) was ordered to respond to Defendant and Appellant Donnie Mack Sellers's petition to have the office removed from his case. OAD filed such a response on February 22, 2010. Thereafter, the case was orally argued on April 21, 2010, and taken under advisement by this Court.

In the interest of providing this Court the most accurate, up-to-date information, undersigned counsel submits the following affidavit as supplemental information for this Court's consideration of this case.

Opposing counsel has been contacted regarding this notice and does not object. However, opposing counsel should be provided time to respond if this Court deems it necessary.

Respectfully submitted this 10th day of June, 2010.

OFFICE OF THE STATE PUBLIC DEFENDER
Appellate Defender Office
139 N. Last Chance Gulch
P.O. Box 200145
Helena, MT 59620-0145

By: Joslyn Hunt
JOSLYN HUNT
Chief Appellate Defender

STATE OF MONTANA)
 : ss.

County of Lewis and Clark)

I, Joslyn Hunt, being first duly sworn upon my oath, depose and state as follows:

1. I am a licensed, practicing attorney in the State of Montana, and am currently employed by the Office of State Public Defender, Appellate Defender Office, as the Chief Appellate Defender.

2. In my capacity as Chief Appellate Defender, I responded to Donnie Mack Sellers's petition to have this office removed from his case. In so responding, I asserted that with regard to the Office of the Appellate Defender (OAD) being a separate office, the information OAD had about a case in not accessible by the regional Office of the State Public Defender (OSPD) attorneys. I reiterated this assertion during oral argument. This assertion remains true to date.

3. As background information, OSPD and OAD purchased a time-tracking software system entitled Justware in the fall of 2009. The agency is statutorily obligated by the Legislature to track and report time spent on cases to ensure the agency provides indigent clients effective and efficient services. The Justware software provides this time-tracking function. Justware is a software program distinct from the physical files that are located within each separate office.

4. It has come to my attention that the Justware software firewalls in place for the Major Crimes Unit (a separate firm within the OSPD agency that handles the major felony cases occurring across the State), the Central Office (administrative and budgetary staff located in Butte who handle the day-to-day functions of the agency, including payroll and personnel issues, for example), and the OSPD investigators are still being worked on.

5. In the interest of providing this Court the most accurate information, so this Court can make a fully informed decision, I wanted this Court to know that the Justware software time-tracking firewall issue for Major Crimes, Central Office and Investigators has been flagged and is being rectified currently by Information Technology and Justware experts.

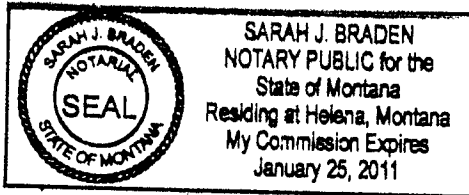
6. As previously asserted, OSPD regional attorneys, such as those who handled Sellers's district court cases here, do not have and have never had access to any OAD files regarding Sellers's appeals. The "Chinese walls" still exist. The Justware software firewalls will enhance the existing Chinese walls in the technological realm.

7. Opposing counsel has been contacted concerning this notice and does not object. However, opposing counsel should be provided an opportunity to respond if this Court deems it necessary.

8. Further your affiant sayeth naught.

Joslyn Hunt
JOSLYN HUNT

SUBSCRIBED AND SWORN to before me this 10th day of June, 2010.



Sarah J. Braden
Sarah J. Braden

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing
Notice of Supplemental Authority to be mailed to:

STEVE BULLOCK
Montana Attorney General
MARK MATTIOLI
Assistant Attorney General
P.O. Box 201401
Helena, MT 59620-1401

GEORGE H. CORN
Ravalli County Attorney
Courthouse
205 Bedford Street
Hamilton, MT 59840

COLIN M. STEPHENS
Smith & Stephens, P.C.
P.O. Box 7337
Missoula, MT 59807

DATED: 6/10/2010

Sarah J. Braden